

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3332

IN THE MATTER OF:

Served May 10, 1989

Application of MARQUIS LIMOUSINE,)
INC., for a Certificate of Public)
Convenience and Necessity to)
Perform Charter Operations)

Case No. AP-88-62

By application filed December 7, 1988, and amended February 23, 1989, Marquis Limousine, Inc. (Marquis or applicant), seeks a certificate of public convenience and necessity to transport passengers, together with their baggage, in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 21 passengers or less, including the driver.

A public hearing was held on February 23, 1989, pursuant to Order No. 3274, served January 11, 1989, and incorporated herein by reference. One company witness testified on applicant's behalf, and five public witnesses testified in support of the application. On-Time American Transport, Inc. (On-Time), protested the application. On-Time appeared at the hearing, cross-examined applicant's witnesses, and presented evidence in opposition to Marquis' application.

SUMMARY OF EVIDENCE

Ms. Laila Morcos, applicant's president, testified at hearing. Marquis is owned by Ms. Morcos and Ms. Lucie Kachadourian; each owns 50 percent of the corporation's stock. Marquis currently operates seven limousines. 1/ Ms. Morcos is responsible for Marquis' current day-to-day operations and would be responsible for overseeing applicant's proposed operations if this application is granted. In addition to her current experience in the transportation industry, the witness has experience working with a travel agency and in hotel marketing. Her partner has experience in "hotel VIP and guest relations." Applicant would be available on a 24-hour basis. Each partner has a portable phone which can be carried into the field and an office line that rings at home. Marquis' drivers are required to carry beepers. Marquis proposes to offer luxury minibus service in a vehicle equipped with captain's chairs, a cassette and record player, and a public address system. Drivers would be uniformed chauffeurs.

1/ It appears that these operations are performed pursuant to Order No. 2559, served May 24, 1984.

Interpretive services would be provided for non-English speaking patrons by the partners who speak French, Arabic, English, Turkish, and Armenian. Service would include refreshments.

Applicant currently employs five full-time and seven part-time drivers. If this application is granted, Marquis plans to hire additional drivers. Applicant would require drivers to have two years of experience, be licensed sightseeing guides, and provide references. Applicant would initiate service using one 21-passenger minibus. Drivers would be required to check the vehicle's fluids, brakes, and belts daily. The minibus would be cleaned after each group and would undergo an oil change and lubrication every 3,000 miles. If the vehicle becomes inoperable, transportation would be secured through other minibus carriers.

Applicant proposes to charge \$55 an hour with a four-hour minimum plus a one-hour report charge for general charter operations. The proposed tariff, as amended, also states transfer charges as follows:

Washington National Airport	\$150
Washington Dulles International Airport	\$185
Amtrak Station, Alexandria, VA	\$150
Union Station, Washington, DC	\$150

Applicant also proposes to include in its tariff a 15 percent gratuity. The gratuity would be included in the bill at the option of the customer. An interpreter's service would be \$25 an hour. Two weeks notice would be required to cancel service without penalty. After that, a charge of 25 percent of the cost of the requested service would be assessed.

Ms. Morcos testified that Marquis receives numerous requests from its clients for minibus service. To accommodate those requests, applicant has had to hire other carriers, but Marquis has not been fully satisfied with the quality of the service rendered. In addition, applicant has had difficulty securing minibus service on short notice. Ms. Morcos testified that she was unaware protestant possessed WMATC authority to operate minibuses. She stated that Marquis would use protestant's service in addition to any minibus service that applicant may offer.

Ms. Morcos submitted late-filed financial data updating the financial picture of the corporation. Applicant's balance sheet as of December 31, 1988, shows total assets of \$231,440, including current assets consisting of \$36,028 in cash and \$18,020 in accounts receivable, and fixed assets after allowance for depreciation are shown as \$177,392. Current liabilities are listed at \$13,720, including \$5,690 in accounts payable, \$3,950 in office expense, and \$4,080 in driver wages. Notes payable on revenue equipment amounted to \$79,340. Applicant lists \$3,000 in capital stock, \$85,016 in earned surplus, and \$30,000 in owners' equity, resulting in total liabilities and equity of

\$211,076. 2/ Applicant's operating statement for the twelve months ended December 31, 1988, shows \$376,485 in operating income and \$370,417 in operating expenses. Applicant expects to generate \$72,000 in revenue from the proposed service in the first year of operations and to incur \$45,120 in operating expenses.

Marquis has a 21-passenger minibus. Ms. Morcos admitted that Marquis operated the minibus for-hire twice. However, immediately upon being informed that WMATC authority was required, applicant ceased operations. Through Ms. Morcos, applicant is familiar with the Compact and the rules and regulations of the Commission and is willing to comply with them.

Ms. Penelope Dwyer testified on behalf of the Madison Hotel in support of the application. Ms. Dwyer is director of guest and public relations for the Madison Hotel, located in Washington, DC. She is responsible, inter alia, for making transportation arrangements for embassies, movie companies, and other special groups. The witness requires transportation in a minibus five to six times a month between January and July and several times a day between September and mid-December. The sales department of the Madison Hotel also requires minibus transportation. The sales department is responsible for making transportation arrangements for business groups, with service required four times a month during peak season and three times a month during off-peak season. Transportation is needed to and from Washington Dulles International Airport, Loudoun County, VA; Washington National Airport, Arlington County, VA; Capitol Hill; and local restaurants. Ms. Dwyer testified that the service rendered by existing minibus carriers has not measured up to the standards required by the Madison Hotel. Drivers are not uniformed and lack familiarity with the city, and vehicles are not clean. The witness has also had difficulty securing minibus service on short notice. The hotel currently uses Marquis' limousine service and finds it reliable. Ms. Dwyer was not familiar with protestant's service.

Ms. Anita Powell testified on behalf of USA Hosts in support of the application. Ms. Powell is director of corporate sales for USA Hosts, a destination management company that attends to the needs of visitors to the Washington metropolitan area. The witness' duties include making transportation arrangements. During a one-year period USA Hosts was responsible for bringing 200 groups consisting of 50,000 to 60,000 people into Washington, DC. Transportation would be required eight to twelve times a month during peak season (March to November) and one to three times a month off-peak. Multi-day service would often be required to points in Washington, DC, including embassies, Capitol Hill, restaurants, and the Smithsonian. Transportation would also be required to points in Northern Virginia, Washington Dulles International Airport, Washington National Airport, and points in

2/ Total assets exceed total liabilities and equity by \$20,364. It would appear from an examination of Marquis' balance sheet as of October 31, 1988, that an item is missing from either equity or liabilities.

Prince George's and Montgomery Counties, MD. Ms. Powell testified that existing minibus services have not been able to meet USA Hosts' transportation needs. She also stated that even if applicant is awarded authority to conduct the proposed operations there would still be a demand for more minibus service. Ms. Powell has had difficulty securing minibus service on short notice and has not always found available service to be adequate. USA Hosts has used Marquis' limousine service and has been pleased with the courteous and dependable service. Ms. Powell was not familiar with protestant's service.

Mr. Richard Spigler supported the operations proposed by Marquis on behalf of SBS International, Inc. (SBS), a hotel management and development company of which Mr. Spigler is president. SBS manages three hotels located in Washington, DC: The Carlyle Suites Hotel, the Georgetown Inn, and the Savoy Suites Hotel. SBS requires transportation in a minibus for hotel residents 20 to 25 times a month between March and October. It requires half that amount during the remaining months. Transportation is required for hotel guests to points throughout the Metropolitan District. SBS also requires minibus transportation for its internal corporate needs five times a month for ten months of the year. The witness was of the opinion that demand for minibus service is greater than supply. This statement is supported by Mr. Spigler's difficulty securing minibus service on short notice. SBS has rented minibuses for its transportation needs with hotel employees as drivers, but the arrangement failed to portray the professional impression that SBS seeks. Applicant currently provides limousine service to each of the three hotels managed by SBS. Mr. Spigler was not aware of protestant's service and stated that two of his three managers were also unfamiliar with On-Time. He did not have an opportunity to question his third manager about protestant's service before the hearing.

Ms. Rita Weber testified in support of the application. Ms. Weber is sales manager for the Grand Hotel in Washington, DC. Her duties include making transportation arrangements for hotel guests who are visiting the city on business. She requires multi-day transportation in a minibus three to six times a month during the peak season of January through mid-July and from mid-September through December. Off-peak usage would be two to three times a month. Non-business related transportation arrangements are handled by the hotel's concierge with multi-day service in a minibus needed six to eight times a month. Service would be required between all points in the Metropolitan District. The witness testified that she has difficulty securing minibus service on short notice. She has also been displeased with the condition of some of the vehicles. The witness has used applicant's limousine service and has been pleased with the service. Ms. Weber was unfamiliar with On-Time's service.

The final witness to testify in support of the application was Mr. William J. Cook. Mr. Cook is the manager for A-One Quality Limousine Service. Although A-One operates limousines, it often receives calls for transportation in minibuses. The witness estimates that A-One would require such minibus service eight to twelve times a

month to points throughout the Metropolitan District. A-One has hired minibus service for its clients from other carriers but has not had good experiences from such arrangements. Mr. Cook has used Marquis' service and is impressed with their operation. Mr. Cook was unfamiliar with On-Time.

On-Time American Transport, Inc., is the sole protestant in this case. On-Time holds WMATC Certificate No. 133 which authorizes the transportation of passengers in charter operations between points in the Metropolitan District that lie within a 30-mile radius of the Capitol Building, restricted to transportation in vehicles that seat 29 passengers or less. If Marquis' application is granted, its certificate would authorize applicant to engage in operations that are covered by On-Time's certificate. The owner and president of On-Time, Mr. Girma Tekleab, testified for protestant at the hearing. On-Time presently operates four minibuses and one 15-passenger van. Mr. Tekleab believes that On-Time's service is underutilized and that applicant's entry into the market would harm On-Time's operations. The witness testified that On-Time is capable of meeting 100 percent of the transportation needs of the witnesses who testified in support of the application. On-Time receives calls daily for minibus service and places three of its four minibuses in service six days a week. The witness admitted to being very busy. A substantial part of On-Time's operations is devoted to service under a contract with an agency that has recently acquired its own WMATC certificate. At the hearing, Mr. Tekleab expressed his concern over the pending termination of that contract, and he has stepped up his efforts to establish contacts with limousine companies and other potential clients. On-Time advertises its service by engaging in door-to-door hotel solicitation and leaving brochures. It also advertises in the yellow pages. On cross-examination the witness admitted that it takes time to establish a market effectively and acknowledged that On-Time needs to improve its marketing techniques. On-Time also admitted to making a costly business judgment by depending heavily on the contract that will be terminated.

DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing, and able to perform properly the transportation for which it seeks a certificate and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity.

Based on a review of the record, we find Marquis capable of providing the proposed service. Marquis has performed transportation in limousines for several years and offers impressive service according to the testimony of the witnesses at hearing who have used its service. The co-owners have experience in the transportation industry and have the ability to provide multi-lingual sightseeing service. Marquis

proposes to operate one vehicle which would undergo a regular maintenance program. A review of the financial data indicates adequate financing to initiate the proposed operations. Through Ms. Morcos applicant is familiar with the Compact and the Commission's rules and regulations and we find that applicant is willing and able to comply with them.

We turn now to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. The Commission has relied on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]) when interpreting this provision of the Compact. The Pan-American test consists of three parts as follows:

. . . whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

Applicant produced five public witnesses, all of whom testified to a need for transportation in minibuses. The witnesses find it difficult to obtain service on short notice from existing carriers and are often displeased with the service rendered. The witnesses have used Marquis' limousine service and would use its minibus service if authority is granted. The witnesses revealed that there is more demand than supply for minibus service. Based upon the testimony of the witnesses, we find that Marquis has met its burden of proving that the proposed service will serve a useful purpose for which there is a demonstrated need. Protestant admitted during the hearing that it was currently very busy but anticipated underutilization of its service in the future. On-Time admits to making a costly business judgment that could have a major effect on the utilization of its vehicles. Protestant plans to institute a more aggressive advertising and marketing strategy. None of the five witnesses who testified in support of the application were familiar with the service offered by protestant. The record repeatedly indicates that existing services do not fully meet the public's demand. No evidence has been submitted which supports a finding that the operations of existing WMATC carriers would be so negatively affected by a newly certificated carrier as be contrary to the public interest. Authority will, therefore, be granted.

THEREFORE, IT IS ORDERED:

1. That Marquis Limousine, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the requirements of this order, to transport passengers, together with their baggage in the same vehicle as passengers, in charter operations between points in the Metropolitan District, restricted to

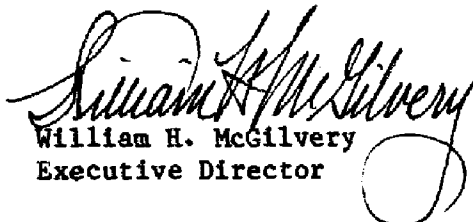
transportation in vehicles with a manufacturer's designed seating capacity of 21 passengers or less, including the driver, and restricted against transportation solely between points located within the Commonwealth of Virginia.

2. That Marquis Limousine, Inc., is hereby directed to file with the Commission the following: (a) two copies of its revised WMATC Tariff No. 1; (b) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (c) a certificate of insurance in accordance with Commission Regulation No. 62; and (d) an affidavit of identification of vehicles pursuant to Regulation No. 67 for which purpose WMATC No. 151 is hereby assigned.

3. That unless Marquis Limousine, Inc., complies with the requirements of the preceding paragraph within 30 days from the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, Certificate of Public Convenience and Necessity No. 151 will be issued to Marquis Limousine, Inc., in the form contained in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 151

MARQUIS LIMOUSINE SERVICE, INC.

WASHINGTON, DC

By Order No. 3332 of the Washington Metropolitan Area Transit Commission issued May 10, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3332;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

CHARTER OPERATIONS transporting persons, together with baggage in the same vehicle as passengers, between points in the Metropolitan District,

RESTRICTED against transportation between points located solely within the Commonwealth of Virginia, and

FURTHER RESTRICTED to transportation of passengers in vehicles that have a manufacturer's designed seating capacity of 21 passengers or less (including the driver).

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of the certificate.